

Message

From: Hurlid, Kathy [Hurlid.Kathy@epa.gov]
Sent: 11/27/2017 12:24:48 PM
To: Mancusi-Ungaro, Philip [Mancusi-Ungaro.Philip@epa.gov]
CC: McGill, Thomas [Mcgill.Thomas@epa.gov]; Hicks, Matt [Hicks.Matthew@epa.gov]; Calli, Rosemary [Calli.Rosemary@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
Subject: Re: discussion about 404 assumption prior to Nov 27 meeting

FYI, just so you all are aware, FWS has backed out of a lot of the moa. Reductions in staffing and NJ doing a good job ...

Sent from my iPhone

On Nov 27, 2017, at 7:22 AM, Hurlid, Kathy <Hurlid.Kathy@epa.gov> wrote:

Morning all, I hope you had a nice thanksgiving.

Ex. 5 Deliberative Process (DP)

-Kathy

Sent from my iPhone

On Nov 27, 2017, at 6:48 AM, Mancusi-Ungaro, Philip <Mancusi-Ungaro.Philip@epa.gov> wrote:

I just reread the ecos letter. I noted in the closing paragraph Pete references a fws Moa nj entered into with fws to govern consultation. You may have sent this before but I would like to see it before our meeting.

Ex. 5 AC/DP

Thanks

Phil

Sent from my iPhone

On Nov 21, 2017, at 2:35 PM, McGill, Thomas <McGill.Thomas@epa.gov> wrote:

***** draft email to FWS *****

Good afternoon Rob, Larry, and Leopoldo,

In addition to the material I provided last week, I'm attaching additional information for your reference in regards to the meeting next week on 404 assumption.

The first attachment is a 3-page Fact Sheet on 404 assumption, which was taken from EPA's website (see also <https://www.epa.gov/cwa-404/state-or-tribal-assumption-section-404-permit-program>).

I'm also attaching a copy of a letter from EPA dated 12/27/2010 regarding Section 7(a)(2) Endangered Species Act consultation. As stated in the letter, the EPA believes that its action to transfer 404 permitting authority is not a discretionary federal action, and thus the Agency need not engage in a Section 7(a)(2) ESA consultation. Although Section 7 consultation is not required, the Clean Water Act and EPA's implementation regulations require that endangered species issues are addressed in authorized state permitting programs.

- <!--[if !supportLists]--><!--[endif]-->A 404 permit cannot be issued that jeopardizes the continued existence of species listed as endangered or threatened under ESA, or results in the likelihood of the destruction or adverse modification of critical habitat.
- <!--[if !supportLists]--><!--[endif]-->State/Tribal-issued 404 permits are subject to the EPA's review for discharges with reasonable potential for affecting endangered or threatened species are determined by the Fish and Wildlife Service. For these permits, EPA must transmit a copy of each public notice, each draft general permit, and other information needed for review to the Corps, the Fish and Wildlife Service and the National Marine Fisheries Service for comment.

We can certainly discuss any comments or questions during next week's meeting, but if you have any questions in the meantime please feel free to call me at 404-821-9067.

Tom

From: McGill, Thomas

Sent: Thursday, November 16, 2017 7:34 AM

To: Robert_Tawes@fws.gov; 'Larry Williams@fws.gov'

<Larry_Williams@fws.gov>; 'Leopoldo_miranda@fws.gov'

<Leopoldo_miranda@fws.gov>

Subject: discussion about 404 assumption prior to Nov 27 meeting

Good morning! If any of you have questions or wish to discuss 404 assumption prior to the November 27 meeting with the Florida Department of Environmental Protection, I would be happy to set up a call. I am generally available Monday through Wednesday next week (Nov 20-22). I'll suggest 9:00 on Tuesday, but if there is a better time/date please let me know. Also, I'm attaching a presentation on 404 assumption which provides some basic information for your reference.
Tom

From: McGill, Thomas

Sent: Wednesday, November 1, 2017 7:11 PM

To: Walker, Mary <walker.mary@epa.gov>; Robert_Tawes@fws.gov

Subject: RE: Contact

Hello Rob,

Here is a brief summary as suggested by Mary...

Section 404 of the Clean Water Act (CWA) establishes a permitting program administered by the U.S. Army Corps of Engineers to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. CWA Section 404(g) provides states and tribes the option of assuming administration of the 404 permitting program for certain waters within state or tribal jurisdiction, subject to the approval of the EPA pursuant to Section 404(h). To date, New Jersey and Michigan are the only states that have formally submitted and received approval by the EPA for assumption of the Section 404 permitting program.

Among other program requirements, the Section 404 permitting regulations require that no discharge of dredge or fill material shall be permitted if it jeopardizes the continued existence of federally-listed endangered or threatened species or results in destruction or adverse modification of critical habitat.

The state of Florida is currently exploring assumption of the 404 permitting program and is in communication with the EPA in regards to the federal requirements for assuming the 404 program. Florida staff have informed the EPA that they wish to engage the U.S. Fish and Wildlife Service and the NOAA Fisheries Service well ahead of any potential submission of a proposed 404 program for EPA's review. The EPA fully supports early engagement and our office looks forward to participating in these important discussions.

Please let me know if you have questions or need more information about any of this.

Thanks.

Tom

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Thomas McGill, Chief
Ocean, Wetlands & Streams Protection Branch
U.S. EPA Region 4, Water Protection Division
61 Forsyth Street, SW
Atlanta, GA 30303
404-562-9243
Mcgill.thomas@epa.gov
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From: Walker, Mary
Sent: Wednesday, November 1, 2017 10:39 AM
To: Robert_Tawes@fws.gov
Cc: McGill, Thomas <Mcgill.Thomas@epa.gov>
Subject: Contact

Hi Rob,

I got your voicemail. Our email addresses are reversed – so that explains the bounceback.

I'll ask Tom McGill, our Branch Chief over Oceans, Wetlands and Streams Protection Branch (copied on this email) to send a brief summary of this effort.

Look forward to meeting you face to face,
Mary

Mary S. Walker
Director, Water Protection Division
US Environmental Protection Agency, Region 4
Tel: 404-562-9345

<OW to ECOS-ASWM 404 Assumption final.pdf>

<Fact Sheet - 404 assumption.docx>